

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Practice and Procedure
Rulemaking**

Case No. AD-17-49

**Statements on Regulatory Analysis, Small Entity Analysis,
and Takings Assessment**

31 January 2017

The proposed rules consist of changes to the Public Service Commission's procedural rules in the following areas: individual customer notice in cases related to utility rates (bill stuffers); appearances at formal hearings; filing proposed rules with Legislative Council, post-hearing comment period for proposed rules; and protection of certain information filed by telecommunications companies.

One additional type of utility filing will be included with the existing types of filings for which individual utility customer notice is required. The requirement that staff who work on formal cases be noted as making a formal appearance is being deleted. The 'thirty days before hearing requirement' for filing proposed rules with the Legislative Council is being eliminated to make the rules consistent with North Dakota Century Code Chapter 28-32. The 30 day comment period after a rules hearing is being revised to 10 days, also to make the procedure consistent with statutory requirements. Finally changes are proposed to permit telecommunication companies to file, and the commission to protect, certain information without the need for an application, a staff analysis, or a commission order.

None of these changes should have any sort of negative impact, financial or otherwise, on regulated industry, consumers, other stakeholders, the Commission, or the public. On the contrary, the proposed rules make the administrative process more efficient and most will save resources for both the regulated community and the agency.

Rate Case Bill Stuffers – N.D. Admin. Code Section 69-02-04-01

The proposed change to section 69-02-04-01 adds one type of case, an advance determination of prudence case, to the list of cases in which the applicant utility must provide individual notice of the application to customers. An advance determination of prudence application has ratemaking consequences and that is the reason for requiring individual customer notice. Currently, even though the specific type of application is not mentioned in the rule, individual customer notices have been required and provided in advance determination of prudence cases because of the ratemaking impact. The proposed change will make the rule consistent with current practice and will have no fiscal or other impact on industry, customers, other stakeholders or the public.

Formal Appearance of Staff Analysts – N.D. Admin. Code Section 69-02-04-02

Existing rule requires the staff analysts who work on a case to be noted in the appearances. While the staff who work on a case are introduced by counsel at hearings, the rule requiring those persons to be listed in the appearances has been inconsistently followed and serves no discernable purpose. Repealing that language will have no impact on any stakeholder.

Proposed Rules Procedure - N.D. Admin. Code Section 69-02-07-02

One change is to eliminate the time requirement for filing proposed rules and notices with the Legislative Council. The other change is to reduce the post-hearing comment period from 30 days to 10 days. Both changes are proposed to make the procedure consistent with the procedure specified in North Dakota Century Code Chapter 28-32. These changes will have no impact on any stakeholder.

Protection of Information - N.D. Admin. Code Chapter 69-02-09

The amendments allow protection for certain information filed by telecommunications companies, without need for an application, a staff analysis, or a commission order. Other procedures in the chapter still apply. The amendments also specify which of the procedures in the chapter do and do not apply to the filing of this information. These changes do not negatively impact the industry or any stakeholder. On the contrary, they make the administrative process more efficient and will save resources for both the regulated community and the agency

Statement on Small Entity Analysis and Economic Impact

Each proposed rule could impact a small entity. However, the impact will be neutral or positive. Several of the proposals make the process involved more efficient and will save time and money for applicants and others interacting with the Public Service Commission. No alternatives were considered other than making no changes at all, which imposes a greater economic and regulatory burden on all impacted entities, including small entities and the agency.

Statement on Regulatory Analysis and Takings Assessment

Since none of the proposals will impact the regulated community by more than \$50,000, and no one has requested a regulatory analysis, none is being prepared at this time for any of the proposed rule changes.

Since none of the proposed rules constitutes a taking of private real property, no Takings Assessment is being prepared.